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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 LVBK, LLC, a Nevada limited liability
8 company,

9 Plaintiff,

10 v.

11 BANK OF AMERICA, N.A.; DOES I
12 through X and ROE CORPORATIONS I
13 through X,

14 Defendants.

Case No. 2:18-cv-00676-RFB-NJK

ORDER

15 **I. INTRODUCTION**

16 Before the Court is Defendant Bank of America, N.A.'s Motion for Judgment on the
17 Pleadings under Federal Rule of Civil Procedure 12(c). ECF No. 15. For the reasons discussed
18 herein, the Court dismisses the matter without prejudice and grants Plaintiff leave to move to
19 reopen the matter after seeking clarification from the bankruptcy court on the at-issue bankruptcy
20 orders.

21 **II. PROCEDURAL BACKGROUND**

22 Plaintiff sued Defendant in state court on February 28, 2018, alleging a single claim for
23 declaratory relief to quiet title of a property. ECF No. 1-1. Defendant removed the matter to this
24 Court on April 13, 2018 and answered the Complaint on May 7, 2018. ECF Nos. 1, 8. A
25 Scheduling Order was entered on June 28, 2018. ECF No. 12.

26 Defendant now moves for Judgment on the Pleadings. ECF No. 15. Plaintiff opposed the
27 motion, and Defendant replied. ECF Nos. 20, 23. The Court stayed this matter, per the parties'
28 stipulation, pending resolution of the pending motion. ECF Nos. 25, 26.

1 **III. FACTUAL BACKGROUND¹**

2 This matter centers on the parties' interest in a property located at 3261 Bridge House,
3 North Las Vegas, Nevada 89032.

4 In 2007, a deed of trust was recorded against the property. The deed of trust secured a
5 promissory note executed by nonparty Alfredo Sanchez. On February 7, 2011, Sanchez filed a
6 Chapter 7 Bankruptcy petition. The property was listed in the petition as a secured claim in the
7 amount of \$255,959.00. Sanchez was discharged from the bankruptcy matter on July 11, 2011.

8 Then, on April 24, 2014, the bankruptcy trustee moved to sell the property subject to all
9 liens and encumbrances. Bankruptcy Judge Nakagawa granted the motion, imposing the following
10 specific conditions:

11 Upon payment of the [final price at the auction of the property], the Trustee will
12 provide the [buyer] with a Declaration of Value and a Trustee's Quitclaim Deed
13 ...; these Documents, along with this Order, must be recorded with the Clark
14 County Recorder's Office no later than 14 days after delivery to the [buyer]. By
15 accepting the Documents, the [buyer] agrees that it is solely responsible for
16 ensuring this timely recordation and for presenting evidence of this timely
17 recordation to the Trustee within 20 days of the delivery. Failure to timely record
18 shall automatically void the [sale] and the Documents delivered, meaning any later
attempt to record them after the 14 days has expired shall provide the [buyer] with
no legal basis to successfully transfer the estate's interest in the Property. Failure
to timely record shall also automatically result in a complete forfeiture to the estate
of all monies paid by the [buyer].

19 Plaintiff purchased the property on June 9, 2014. On August 1, 2014, Judge Nakawaga
20 signed an amended order to confirm that the debtor and Sanchez were the same individual. Judge
21 Nakawaga explained via a footnote that the amended order was entered because Plaintiff could not
22 record the deed of trust from the sale due to the variance in spelling of Sanchez's name on relevant
23 documents. On August 28, 2014, Plaintiff then recorded the quitclaim deed, which was dated
24 August 1, 2014. Thus, the quitclaim deed was recorded twenty-seven days after Judge Nakawaga's

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26 ¹ The factual background is a compilation of Plaintiff's allegations and information
27 contained in public documents. Lee v .City of Los Angeles, 250 F.3d 668, 688 (9th Cir. 2001)
28 (holding that a court may judicially notice "matters of public record" and "material which is
properly submitted as part of the complaint" when analyzing a Rule 12(b)(6) motion without
converting the motion to one for summary judgment if the judicially noticed facts are not subject
to reasonable dispute).

1 amended order was entered and after the date the quitclaim deed was executed. Plaintiff did not
2 record the Bankruptcy Order or Amended Order.

3 On November 21, 2014, Plaintiff filed a Chapter 11 Bankruptcy petition. The property was
4 listed as a secured claim in the petition. On March 26, 2015, Plaintiff moved to cramdown the
5 first deed of trust. The notice of the motion did not include mailing to the proper Bank of America
6 address listed on the first deed of trust. The motion was granted as unopposed on April 27, 2015,
7 stating that the first deed of trust is partially unsecured beyond \$56,000.00. Plaintiff's Second
8 Amended Plan of Reorganization was later approved on October 21, 2016, which lists the value
9 of the property at \$56,000.00. Defendant never disputed Plaintiff's ownership in the property
10 during Plaintiff's nor Sanchez's bankruptcy proceedings. Rather, Defendant reviewed and
11 approved through its counsel the Bankruptcy Court's Order approving the Amended Plan of
12 Reorganization. Defendant did so despite previously objecting to the confirmation of Plaintiff's
13 proposed plan of reorganization as it related to another property.

14 **IV. LEGAL STANDARD**

15 Rule 12(c) states: "After the pleadings are closed—but early enough not to delay trial—a
16 party may move for judgment on the pleadings." Fed. R. Civ. P. 12(c). The Ninth Circuit treats a
17 Rule 12(c) motion as "functionally identical" to a Rule 12(b)(6) motion. Gregg v. Dep't of Pub.
18 Safety, 870 F.3d 883, 887 (9th Cir. 2017) (citations omitted). Judgment on the pleadings is proper
19 when "taking all the allegations in the pleadings as true, the moving party is entitled to judgment
20 as a matter of law." Id. (quotations and citations omitted). In ruling on a Rule 12(c) motion, the
21 court must determine if the at-issue complaint contains "sufficient factual matter, accepted as true,
22 to state a claim of relief that is plausible on its face." Harris v. Cty. of Orange, 682 F.3d 1126,
23 1131 (9th Cir. 2012) (quotations and citations omitted). A claim is plausible when the plaintiff
24 alleged sufficient facts for the court to reasonably infer misconduct. Id. "[T]he court is not
25 required to accept as true a legal conclusion couched as a factual allegation." Id. (quotations and
26 citations omitted).

27 **V. DISCUSSION**

28 Defendant moves for judgment on the pleadings, arguing that Plaintiff claims title based

1 on a void quitclaim deed since the deed was not recorded in compliance with Judge Nakawaga's
2 Bankruptcy Order—an order referenced on the face of the quitclaim deed. Defendant points to
3 Plaintiff's failure to file the quitclaim within fourteen days and failure to file the Bankruptcy Order.
4 Thus, Defendant contends that Plaintiff never acquired an interest in the property. Plaintiff
5 therefore had no interest in the property when it moved the first deed of trust—a motion never
6 served on Defendant at its proper address.

7 Plaintiff replies that Defendant's argument relies on an alleged sales agreement, which
8 cannot be judicially noticed at this stage of the proceedings. Plaintiff also contends that a question
9 of fact exists: whether the Trustee waived its right to have the Order recorded with the deed of
10 trust by reaffirming the sale after the alleged deadline to record passed. Plaintiff finally argues
11 that Defendant must be estopped from disputing Plaintiff's ownership interest under the doctrines
12 of claim preclusion and collateral estoppel since Defendant was represented by counsel and an
13 active participant in the bankruptcy proceedings for Sanchez and for Plaintiff. Despite actively
14 participating, Defendant failed to contest Plaintiff's interest in the property until now—nearly two
15 years after Plaintiff's Bankruptcy Plan was granted.

16 The Court finds that the instant dispute requires the interpretation of Judge Nakagawa's
17 Orders. Specifically, the Court finds that the validity or invalidity of the initial transfer of the
18 property from the estate to the Plaintiff depends upon the interpretation and application of Judge
19 Nakagawa's two orders regarding sale of the property from the estate. This finding gives rise to
20 bankruptcy court jurisdiction. "[I]t is well recognized that a bankruptcy court has the power to
21 interpret and enforce its own orders." In re Wilshire Courtyard, 729 F.3d 1279, 1289 (9th Cir.
22 2013). "Title 28 U.S.C. § 1334(b) vests jurisdiction over bankruptcy matters in the district court
23 by conferring jurisdiction over all civil proceedings arising under title 11." In re Franklin, 802
24 F.2d 324, 326 (9th Cir. 1986) (internal quotation marks omitted). Further, "[c]ases arising under
25 section 1334(b) are in turn delegated to the bankruptcy courts through 28 U.S.C. § 157." Id. The
26 Ninth Circuit has held that the forgoing results in bankruptcy courts having "jurisdiction over [a]
27 declaratory judgment action if such an action requir[es] a bankruptcy judge to determine the effect
28 of a prior order of the bankruptcy court[.]" Id. Indeed, "[r]equests for bankruptcy courts to

1 construe their own orders must be considered to arise under title 11” and thus fall within the
2 jurisdiction of bankruptcy courts. Id.; see also In re Ray, 624 F.3d 1124, 1130–31 (9th Cir. 2010).

3 Based on the foregoing, the Court therefore finds that the bankruptcy court, rather than this
4 Court, is the proper court to address the dispute between the parties: whether the terms of the
5 Bankruptcy Order automatically void the quitclaim deed. The Court dismisses this matter without
6 prejudice and grants Plaintiff leave to move to reopen the matter, if necessary, after receiving an
7 order from the bankruptcy court.

8 **VI. CONCLUSION**

9 **IT IS THEREFORE ORDERED** that this matter is DISMISSED without prejudice. The
10 Clerk of the Court is instructed to close this matter accordingly.

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12 DATED: March 16, 2019.



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14 **RICHARD F. BOULWARE, II**
15 **UNITED STATES DISTRICT JUDGE**
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